



# राजपत्र, हिमाचल प्रदेश

## (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, बुधवार, २१ मार्च, १९७३/३० फाल्गुन, १९९४

### GOVERNMENT OF HIMACHAL PRADESH

#### LAW DEPARTMENT

#### NOTIFICATIONS

*Simla-2, the 15th March, 1973*

**No. 5-35/72-LR.**—The Himachal Pradesh Essential Services (Maintenance) Bill, 1972 (Bill No. 21 of 1972) after having received the assent of the Governor, Himachal Pradesh on the 9th March, 1973, under Article 200 of the Constitution of India, is hereby published in the Rajpatra, Himachal Pradesh as Act No. 5 of 1973.

JOSEPH DINA NATH,  
*Deputy Secretary.*

Act No. 5 of 1973

# THE HIMACHAL PRADESH ESSENTIAL SERVICES

## (MAINTENANCE) ACT, 1972

AN  
ACT

*to make provisions for the maintenance of certain essential services.*

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-third Year of the Republic of India as follows:—

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Himachal Pradesh Essential Services (Maintenance) Act, 1972.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) “Employment” includes employment of any nature and whether paid or unpaid;

(b) “Government” or “State Government” means the Government of Himachal Pradesh.

Employ-  
ment to  
which this  
Act applies.

3. This Act shall apply to all employment under the State Government and to any employment or class of employment which the State Government, being of opinion that such employment or class of employment is essential for securing the public safety, the maintenance of public order, health or sanitation, or for maintaining supplies or services necessary for the life of the community, may, by notification in the Official Gazette, declare to be an employment or class of employment to which this Act applies.

Power to  
order per-  
sons enga-  
ged in cer-  
tain em-  
ployments  
to remain  
in specified  
areas.

4. (1) The Government or any officer authorised in this behalf by the Government may, in respect of any employment or class of employment to which section 3 applies, by general or special order, direct that any person or persons engaged in such employment shall not depart out of such area or areas as may be specified in such order.

(2) An order made under sub-section (1) shall be published in such manner as the Government or officer making the order considers best calculated to bring it to the notice of the persons affected by the order.

Offences

5. Any person engaged in any employment or class of employment to which this Act applies who—

(a) disobeys any lawful order given to him in the course of such employment, or

(b) without reasonable excuse abandons such employment or absents himself from work, or

(c) departs from any area specified in an order under sub-section (1) of section 4 without the consent of the authority making the order,

and any employer of a person engaged in an employment or class of employment declared under section 3 to be an employment to which this Act applies, who without reasonable cause—

- (i) discontinues the employment of such person, or
  - (ii) by closing an establishment in which such person is engaged, causes the discontinuance of his employment,
- is guilty of an offence under this Act.

*Explanation I.*—The fact that a person apprehends that by continuing in his employment he will be exposed to increased physical danger is not a reasonable excuse within the meaning of clause (b).

*Explanation II*—A person abandons his employment within the meaning of clause (b) who, notwithstanding that it is an express or implied term of his contract of employment that he may terminate his employment on giving notice to his employer of his intention to do so, so terminates his employment without the previous consent of his employer.

6. (1) The State Government may make rules regulating or empowering a specified authority to regulate wages or other conditions of service of persons or of any class of persons engaged in any employment declared under section 3 to be an employment or class of employment to which this Act applies.

Regulation of wages and conditions of service.

(2) When any such rules have been made or when any directions regulating wages or conditions of service have been given by an authority empowered by such rules to give them, any person failing to comply therewith is guilty of an offence under this Act.

7. (1) Any person found guilty of an offence under this Act shall on conviction by a competent criminal court be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

Penalties and procedure.

(2) Where the person accused of an offence under this Act is a company or other body corporate, every director, manager, secretary or other officer thereof shall, unless he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of the offence, be liable to the punishment provided for the offence.

(3) No court shall take cognizance of any offence under this Act except upon complaint in writing made by a person authorised in this behalf by the State Government.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence under this Act, shall be cognizable.

(5) Any magistrate or bench of magistrates empowered for the time being to try in a summary way the offences specified in sub-section (1) of section 260 of the Criminal Procedure Code, 1898, may, if such magistrate or bench of magistrates think(s) fit, on application in this behalf by the prosecution, try any offence under this Act in accordance with the provisions contained in sections 262 to 265 of the said Code.

8. No suit, prosecution or other legal proceedings shall lie against any person for anything which is, in good faith done or intended to be done, under this Act or the rules made thereunder.

Bar of legal proceedings.

Effect of  
orders,  
rules, etc.  
made under  
this Act.

9. Any declaration, order, rule or regulation made and any direction given under this Act shall have effect notwithstanding anything contained in any law other than this Act.

Repeal and  
savings.

10. The East Punjab Essential Services (Maintenance) Act, 1947, as in force in the areas transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, is hereby repealed: 29 of 1947

31 of 1966

Provided that any order made, notification or direction issued, appointment made or action taken in exercise of the powers conferred by or under the provisions of the Act so repealed, shall, in so far as it is not inconsistent with the provisions of this Act, continue in force and be deemed to have been made, issued, done or taken under the corresponding provisions of this Act as if this Act was in force on the day on which such thing was done or action taken and all the provisions of this Act shall apply accordingly.

*Simla-2, the 15th March, 1973*

No. 5-30/72-LR.—The Himachal Pradesh Panchayati Raj (Amendment) Bill, 1972 (Bill No. 26 of 1972) after having received the assent of the Governor, Himachal Pradesh, on the 9th March, 1973, under Article 200 of the Constitution of India, is hereby published in the Rajpatra, Himachal Pradesh as Act No. 6 of 1973.

JOSEPH DINA NATH,  
*Deputy Secretary.*

Act No. 6 of 1973

**THE HIMACHAL PRADESH PANCHAYATI RAJ  
(AMENDMENT) ACT, 1972**

AN  
ACT

*further to amend the Himachal Pradesh Panchayati Raj Act, 1968  
(Act No. 19 of 1970).*

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-third Year of the Republic of India as follows:—

Short title  
and com-  
mencement.

1. (1) This Act may be called the Himachal Pradesh Panchayati Raj (Amendment) Act, 1972.

(2) It shall come into force at once.

Amend-  
ment of  
section 9.

2. For clause (a) of sub-section (5) of section 9 of the Himachal Pradesh Panchayati Raj Act, 1968 (hereinafter referred to as the principal Act), the following shall be substituted as clause (a), namely:—

19 of 1970

“(a) (i) is not a citizen of India; and

(ii) is less than 25 years of age;”.

Amendment  
of section  
219.

3. For sub-section (1) of section 219 of the principal Act, the following shall be substituted as sub-section (1), namely:—

“(1) The revenue court concerned shall transfer to the Nyaya Panchayat, if any, having jurisdiction, all applications under section 36 of the Punjab Land Revenue Act, 1887 as in force in the transferred territory and under section 46 of the Himachal Pradesh Land Revenue Act, 1953 if the relief required is the restoration of possession to the lawful occupant who is found to have been wrongfully dispossessed of landed property within a period of three months previous to the date of filing the application in the office of the revenue court concerned:

17 of 1887

6 of 1954

Provided that the revenue court concerned, may for sufficient reasons to be recorded, forward any such application to the Sub-Divisional Officer who shall decide whether the application should or should not be transferred to the Panchayat.”

Repeal and  
savings.

4. The Himachal Pradesh Panchayati Raj (Amendment) Ordinance, 1972 (Ordinance No. 5 of 1972) is hereby repealed:

Provided that anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.